IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 309 OF 2007
IN
SECOND APPEAL NO. 80 OF 2006

NARAYAN DAMODAR NAIK (DECEASED)
THROUGH HIS LR'S ... Applicant
Versus
MAHABALESHWAR R. NAIK AND 10 ORS., ... Respondents

Mr. Shivan Dessai, Advocate for the Applicants.

Ms. S. Mordekar, Advocate for the Respondents.

Coram:- S.A. BOBDE, J.

Date:- 29th June, 2007

P.C.:

This application is made by the applicants in possession of the premises, for carrying out repairs in the area in dispute.

2. Since the learned counsel for the respondents disputed the allegation of the applicants that the premises required repairs, this Court appointed Mr. Vivek Rodrigues as Commissioner to inspect the premises and make a report to the Court. The Commissioner has submitted a report dated 28.06.07 which is marked "X" for identification and taken on record. It is clear from the report that repairs to several parts of the premises are necessary.

3. Having regard to the report and the fact that the applicants appear to be in occupation of the premises since a long time, the applicants are hereby permitted to carry out the repairs to the premises and keep an account of the expenditure incurred for carrying out the repairs. The learned counsel for the respondents expressed an apprehension that in the

guise of repairs, the applicants may make structural changes and alterations for making another room in the premises.

4. The learned counsel for the applicants denies any such intention. In any case, having regard to the nature of dispute between the parties, it would be appropriate to direct the Commissioner to visit the premises after the applicants notify that the repairs have been carried out and make a report to this Court. Commissioner's fee shall be fixed as before. Order accordingly.

S.A. BOBDE, J.

sl.